

PIRAYOU

L A W O F F I C E S

February 21, 2000

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

FEB 23 11 21 AM '00

VIA OVERNIGHT MAIL

Office of General Counsel
Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463

MUR 4975

RE: COMPLAINT: MIKE HONDA FOR CONGRESS
FEC I.D. C00351379
111 W. ST. JOHN STREET, #400
SAN JOSE, CA 95113

Dear Sir or Madam:

I serve as the General Counsel to the complainant in this matter: Peacock for Congress; 16795 Lark Avenue, Suite 105; Los Gatos, CA 95032. Based on my information and belief provided to me by Peacock for Congress senior campaign staff, I provide the following recital of facts:

1. The Peacock for Congress campaign and others, including members of the media, have recently observed members of Mike Honda's Assembly staff distributing yard signs expressly advocating the election of Mike Honda to Congress; and
2. These yard signs did not have any disclaimers informing the public who (1) authorized the signs or (2) paid for the signs.

I have attached an example of these yard signs.

Federal law clearly requires that if Assemblyman Honda authorized these yard signs but did not finance their production, the identity of the person paying for them should be disclosed (see Campaign Guide for Federal Candidates, page 32). If Assemblyman Honda did not authorize these yard signs nor finance them, he and his Assembly staff may be required to provide certain notice provisions applicable to such independent expenditures.

On behalf of the Peacock for Congress campaign, I respectfully request that you take immediate steps to remedy this situation.

Very truly yours,

PIRAYOU LAW OFFICES

By:

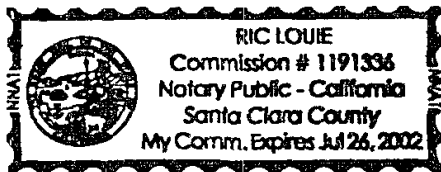

ASH PIRAYOU
ATTORNEY AT LAW

Attachment: Notary Public Certificate & Yard Sign

101 Park Center Plaza, Suite 1160 • San Jose, California 95113
Tel. 408-297-3795 • Fax 408-297-3796 • www.pirayoulaw.com

JURAT

State of California }
County of Santa Clara } ss.



Subscribed and sworn to (or affirmed) before me

this 22 day of February, 192000, by
Date Month Year

(1) ASHURBEL PIRAYOU
Name of Signer(s)

(2) _____
Name of Signer(s)

[Signature]
Signature of Notary Public

OPTIONAL

Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Complaint Statement

Document Date: Feb 21, 2000 Number of Pages: 2

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT OF SIGNER #2
Top of thumb here

20 "01" 102 "2576

2. Disclaimer Notices

When a campaign uses *public political advertising* (see below) to solicit contributions or to *expressly advocate* the election or defeat of a *clearly identified candidate*, the communication must display a disclaimer notice. 110.11(a).

Public Political Advertising

Public political advertising includes the following media and similar forms of advertising:

- TV and radio broadcasts;²
- Print media (newspapers, magazines, billboards, yard signs, handbills, etc.);
- The Internet (AOs 1995-35 and 1995-9); and
- Direct mailings. 110.11(a)(1).

For purposes of the disclaimer notice requirement, direct mailing means a mailing of at least 100 pieces of substantially similar pieces of mail. 110.11(a)(3).

"Substantially similar" means that each piece contains the same basic communication. Each piece may, however, be personalized to include the recipient's name, address and similar variables. (Explanation and Justification to 11 CFR 110.11(a)(3), published in the Federal Register on October 5, 1995 (60 FR 52070).)

Wording of Disclaimer Notice

Authorized and Financed by Campaign

If the campaign authorizes and finances a communication, the notice need only state that the communication was paid for by the authorized committee.

EXAMPLE: "Paid for by the Sam Jones for Congress Committee." 110.11(a)(1)(i).

Authorized but Not Financed by Campaign

If a communication is authorized by the campaign but paid for by another person, the communication must identify the person who paid for it and state that it was authorized by the campaign.

EXAMPLE: "Paid for by the XYZ Committee and authorized by the Sam Jones for Congress Committee." 110.11(a)(1)(ii).

2. If broadcasting media are used, the committee should consult the Federal Communications Commission; see Appendix E.

Not Authorized or Financed by Campaign

Although this type of notice is not used by a candidate's campaign, campaign staff should be aware that if a communication advocates the election or defeat of their candidate but is not authorized by the campaign, the notice must identify the person who financed the communication and state that it was not authorized by any candidate or candidate's committee.

EXAMPLE: "Paid for by the ABC PAC and not authorized by any candidate or candidate's committee." 110.11(a)(1)(iii). This type of notice must be used on independent expenditures. 109.3.³

Preemption of State Law

An authorization notice does not have to comply with state law if the communication is made only with respect to federal elections. 108.7(b). See also, for example, AO 1986-11.

Placement of Disclaimer Notice

An authorization notice must be clearly and conspicuously displayed. A notice is not clearly and conspicuously displayed if the print is difficult to read or if the placement is easily overlooked. 110.11(a)(5).

Television Ad

A disclaimer in a televised advertisement must appear in letters no smaller than 4 percent of the vertical picture height. The disclaimer must be aired for at least 4 seconds. 110.11(a)(5)(iii).⁴

Multiple-Paged Document

A disclaimer need not appear on the front page or cover of a multiple-paged document. 110.11(a)(5)(i).

Package of Materials

Each communication that would require a disclaimer if distributed separately must still display the disclaimer when included in a package of materials.

110.11(a)(5)(ii). For example, if a campaign poster is mailed with a solicitation for contributions, a separate disclaimer must appear on the solicitation and the poster.

3. When individuals and committees outside the campaign use public political advertising to solicit contributions, the solicitation must carry a notice stating who paid for the solicitation and whether or not it was authorized by the candidate or the committee. 2 U.S.C. §441d.

4. This requirement is based on a regulation of the Federal Communications Commission (47 CFR 73.1212(a)(2)(ii)).

When Disclaimer Not Required

A disclaimer is not required when:

- It cannot be conveniently printed (e.g., pens, bumper stickers, campaign pins, campaign buttons and similar small items);
- Its display is not practicable (e.g., wearing apparel, water towers and skywriting); or
- The item is of minimal value, does not contain a political message and is used for administrative purposes (e.g., checks and receipts). 110.11(a)(6).

3. Rates for Political Advertisements

Rates charged by newspapers and magazines for campaign advertising must be comparable to those charged for noncampaign advertisements. 110.11(b). Rates charged for radio and television advertisements are regulated by the Federal Communications Commission. See Appendix E, page 69.

4. Campaign Travel

Reporting Travel Costs

Payments for a candidate's campaign-related travel are generally reported as *operating expenditures* regardless of whether they are paid with campaign funds or with the candidate's personal funds. 106.3(a) and (b)(1). Special rules apply, however, when the candidate or another individual uses his or her personal funds to pay for travel expenses and is later reimbursed. See "Travel Expenses" on page 21 for more information.

Allocating Travel Costs

When a candidate makes a trip involving both campaign and noncampaign stops, only the travel costs related to the campaign are expenditures. If, however, a candidate conducts any campaign activity at a given stop, that stop is considered campaign related, unless the campaign activity is merely incidental. For example, if a candidate makes a

20 "04" 402 "2579

DECLASSIFICATION

FOR THE FUTURE

Bringing Real Life to Congress